

FOREWORD



Deval L. Patrick

I am pleased to provide you with the June 1995 edition of the Civil Rights Division's Activities and Programs Brochure. The brochure is published to give a detailed description of the Civil Rights Division and the responsibilities of the Sections within the Division. Following each Section description are examples of recent litigation and other enforcement activities of the Division.

The Civil Rights Division was created for the purpose of enforcing federal statutes prohibiting discrimination. I hope that this brochure helps you better understand our mission and how we endeavor to carry it out. Our challenge lies not only in calling into account acts of discrimination that diminish our stature as citizens, but also in educating the American public about the moral imperative that civil rights is ultimately all about.

If you have any questions or comments regarding the work of the Division, please contact any of the respective Sections listed inside or my office as follows:

Office of the Assistant Attorney General
Civil Rights Division
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A stylized, handwritten signature of Deval L. Patrick in black ink.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

INTRODUCTION

The Civil Rights Division of the Department of Justice was established in 1957 following enactment of the first civil rights statutes since Reconstruction. The Division is the primary institution within the federal government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, handicap, religion, and national origin. Since its establishment, the Division has grown dramatically both in size and responsibility.

The Division enforces the Civil Rights Acts of 1957, 1960, 1964, and 1968; the Voting Rights Act of 1965, as amended in 1970, 1975, and 1982; the Equal Credit Opportunity Act; the Americans with Disabilities Act and additional civil rights provisions contained in other laws and regulations. These laws prohibit discrimination in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs. In addition, the Division prosecutes actions under several criminal civil rights statutes which were designed to preserve personal liberties and safety. The Division also enforces the Civil Rights of Institutionalized Persons Act of 1980, which authorizes the Attorney General to seek relief for persons confined in public institutions where conditions exist that deprive residents of their constitutional rights; and Section 102 of the Immigration Reform and Control Act of 1986, as amended, which prohibits discrimination on the basis of national origin and citizenship status.

The Division is responsible for coordinating the civil rights enforcement efforts of federal agencies whose programs are covered by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, as amended, and assists federal agencies in identifying and removing discriminatory provisions in their policies and programs.

The Civil Rights Division does not have regional offices. All Division employees are stationed in Washington, D.C. Nearly all Division attorneys and, occasionally, some paralegal and clerical personnel are required to travel since litigation activities occur in all parts of the United States.

THE STRUCTURE OF THE CIVIL RIGHTS DIVISION

The Division is headed by an Assistant Attorney General. He is assisted by the Deputy Assistant Attorneys General. The Office of the Assistant Attorney General establishes policy and provides executive direction and control over litigative enforcement and administrative management activities in the Division.

The Division has ten program-related Sections, an Administrative Management Section, and an Office of Redress Administration. Eight of the Sections have enforcement responsibilities over particular subject areas; one is responsible for the coordination of federal agencies' civil rights enforcement efforts; and another handles appellate matters and provides legal guidance. The Administrative Management Section supports the Division's work by providing services in the areas of personnel, budget, automated systems, procurement, mail and records management, and by preparing responses to requests for information under the Freedom of Information and Privacy Acts.

The following is a brief summary of each Section's responsibilities in enforcing the laws and regulations for which it is charged.

Appellate Section

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The Appellate Section has primary responsibility for handling civil rights cases in the courts of appeals and, in cooperation with the Solicitor General, in the Supreme Court. The Section also provides legal counsel to other components of the Department of Justice regarding civil rights law and appellate litigation.

Most of the Section's appeals are from district court judgments in cases originally handled by trial sections within the Division. The appellate caseload is both affirmative and defensive. Thus, the Section handles all appeals from both favorable and adverse judgments in which the government participates.

A significant proportion of the Section's work involves participation as amicus curiae (friend of the court) in cases that have the potential for affecting Division enforcement responsibilities. In this capacity, the Appellate Section closely monitors federal court cases to which the United States is not a party. In many of these cases, especially those concerned with developing or problematic areas of civil rights law, the Section uses the federal government's authority to file an amicus curiae brief to register the government's position.

Recent examples of cases handled by the Appellate Section include:

The Supreme Court adopted the position of the Department in McKennon v. Nashville Banner Co. The court of appeals, relying on the doctrine of "after-acquired evidence," had granted summary judgment to an employer charged with age discrimination based on evidence about the employee's misconduct that the employer discovered after the employment decision was already made but which provided non-discriminatory support for the employment decision under review. The Supreme Court did away with the "after-acquired evidence" defense, holding that while after-acquired evidence may be relevant to the extent of back-pay relief, it may not be used to absolve an employer completely from discriminatory employment actions. An amicus brief was filed in this case.

The Section defended the Department of Transportation (DOT) in Appellate proceedings in Adarand Constructors, Inc. v. Peña, which involved a constitutional challenge to DOT's use of race-conscious criteria in a subcontracting compensation clause (SCC). The SCC was designed by DOT officials as a method for satisfying the agency's disadvantaged business enterprise contracting obligations under the Small Business Act. The Small Business Act was enacted to remedy discrimination in federal procurement and construction contracting, and established a 5% goal for utilizing socially and economically disadvantaged businesses in federal contracts. The plaintiff Adarand, a non-minority business, brought the suit after losing a federal guardrail subcontract to a minority-owned business. On motions for summary judgment, the district court ruled in favor of DOT, and held that DOT's use of the SCC, as a tool to effectuate Congress's mandate, was constitutional. The court of appeals affirmed. The Supreme Court granted plaintiff's petition

for certiorari and held oral argument in January 1995. A decision from the Court is expected sometime this spring.

The United States also participated as *amicus curiae* in the Supreme Court in Missouri v. Jenkins. The Kansas City, Missouri, school system has been operating under a desegregation plan that has included a number of educational programs partially funded by the State of Missouri. The court of appeals refused to hold that the school system's educational programs had achieved unitary status, rejecting Missouri's attempt to be relieved of financial responsibility for the programs. The United States argued, as *amicus curiae* in support of respondents that the court of appeals correctly determined, under Board of Educ. of Oklahoma City v. Dowell, and Freeman v. Pitts, that unitary status in educational quality had not been achieved, and that test scores may be considered as one indication of a rise in educational program quality and academic achievement. The case was argued in January 1995, and the Court is expected to issue its decision within the next several months.

The Department has taken an active role in several cases critical to the future of minority representation in states with long histories of depriving minority voters of full participation in the electoral process. The Department intervened as a defendant in cases arising in Georgia, Louisiana and Texas in which the states, when redrawing congressional districts, attempted to do so in a manner to comply with requirements of the Voting Rights Act and to ensure that the redistricting plan treated minority voters fairly. In all three states, in which voting has long been characterized by racial voting blocs, legislators attempted to create a few districts in which minority voters would be in the majority and would have an opportunity to elect congressional candidates of their choice. In all three, legislators were convinced that it was possible to draw a few majority-minority districts in a manner that followed the state's usual redistricting practices. Nevertheless, in each case, federal district courts held that majority-minority congressional districts were unconstitutional (one district in Georgia, one in Louisiana and three in Texas).

After the district courts acted, the Department of Justice, along with the state defendants, appealed the cases to the Supreme Court. In both the Georgia and Louisiana cases, the Section obtained stays of the district courts' remedial orders, thereby permitting the November 1994 congressional elections to be held under the states' plans. (The Texas ruling did not affect

the 1994 election.) The Supreme Court granted plenary review in the Georgia and Louisiana cases, and is holding the Texas case in abeyance. The Department argued in its briefs that the majority-minority districts at issue in the Georgia and Louisiana cases were drawn in a manner consistent with legitimate, traditional districting practices, and therefore satisfy constitutional standards. Oral argument in both cases was presented in April 1995, and a decision is expected within the next several months.

In Helen L. v. DiDario, the Third Circuit ruled that Pennsylvania's Department of Public Welfare violated Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12132, by refusing to provide services to an individual with a disability in the most integrated setting appropriate to her needs, as required by the Department's implementing regulations. Specifically, the state was required to provide plaintiff, a mother of young children who uses a wheelchair, with at-home attendant care services rather than require her residence in a nursing home. An amicus brief was filed and argument presented in support of the plaintiff.

The Seventh Circuit issued a decision in Kelley v. Board of Trustees, University of Illinois, affirming the district court's entry of summary judgment to the University, ruling that the University's decision to discontinue its men's swimming team, while continuing its women's team, did not violate Title IX or the Equal Protection Clause. An amicus brief was filed supporting the University.

In Jones (The Citadel) v. Faulkner & United States, No. 94-1978 (4th Cir.) the Fourth Circuit affirmed a district court ruling that the State of South Carolina and The Citadel, the Military College of South Carolina, violated the Fourteenth Amendment by offering men, but not women, the benefits of a Citadel-type education. The court of appeals rejected defendants' justification for offering men, but not women, a Citadel-type education, *i.e.*, that South Carolina has a gender neutral policy of offering educational programs based on demand. The court stated that the admissions policy is an explicit gender-based classification, and that defendants failed to present evidence to support their asserted justification for the gender classification -- the absence of demand by women for single-sex education. The court of appeals ruled that defendants must admit Shannon Faulkner into the Corps of Cadets by fall 1995 unless a remedial plan is approved by the court and implemented by

To carry out its mission, the Section develops model regulations, policies, and enforcement standards and procedures, and reviews similar products developed by individual agencies to ensure the consistent, effective, and efficient enforcement of these statutes. The Section also reviews plans submitted by federal agencies describing their civil rights enforcement priorities, activities, and progress, and reviews workload and performance data on their enforcement activities. The Section provides technical assistance and training to improve the compliance and enforcement programs of individual agencies.

The Section also serves as a clearinghouse for policy and program issues and complaints that address discrimination on the basis of race, color, national origin, sex, and religion in programs of federal financial assistance. The Section makes programmatic and complaint referrals to the appropriate agencies, makes determinations as to likely jurisdiction in cases that include multiple issues or agencies, and coordinates policy development when multiple agencies or cross-cutting issues are involved.

The Section also conducts complaint investigations and compliance reviews of recipients of funds from the Department of Justice. The Department of Justice is a major provider of federal financial assistance. Investigators and attorneys from the Section conduct administrative investigations of complaints of race, color, national origin, religion, age, and sex discrimination in the provision of services by recipients of funds from the Department of Justice. These recipients include state and local law enforcement agencies, courts, corrections systems, juvenile justice systems, and a variety of nongovernmental entities.

The Section seeks case resolutions through the use of alternative dispute resolution techniques, if appropriate, in lieu of full field investigations. In other cases, investigations may result in the issuance of formal findings of compliance or non-compliance. If voluntary compliance cannot be achieved where non-compliance is found, the Section refers the case to the appropriate Section of the Civil Rights Division for litigation or, in cooperation with the appropriate funding component within the Department, seeks to terminate the federal financial assistance through an administrative hearing.

The Section also undertakes compliance reviews of recipients of Department of Justice funds. These compliance reviews, which can be comprehensive or limited to a specific issue, are undertaken where the Section has reason to believe that discrimination in the provision of services is occurring on the basis of race, color, national origin, religion, age, or sex.

Criminal Section
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The Criminal Section is a trial section whose attorneys frequently prosecute cases of national significance involving the deprivation of personal liberties which either cannot be, or are not, sufficiently addressed by state or local authorities. These are invariably matters of intense public interest involving acts of racial or religious violence, misconduct by local and federal law enforcement officials, or violations of the peonage and involuntary servitude statutes that protect migrant workers and others held in bondage. Recently, the Criminal Section, along with other Department of Justice components, also began enforcing the new Freedom of Access to Clinic Entrances Act (FACE).

The federal criminal civil rights statutes provide for prosecutions of conspiracies to interfere with federally protected rights, deprivation of rights under color of law, the use or threat of force to injure or intimidate someone in their enjoyment of specific rights (such as voting, employment, education, public facilities and accommodations), criminal housing interference, and interference with persons seeking to obtain or provide reproductive health services.

The Section receives between eight and ten thousand criminal civil rights complaints annually in the form of citizen correspondence, telephone calls, or personal visits to the Department of Justice, to the local U.S. Attorney's office or, most commonly, to the Federal Bureau of Investigation (FBI). Complaints setting forth possible violations of the law for which the Department has jurisdiction are forwarded to the FBI for investigation. Upon conclusion of the investigation, the FBI forwards a report to the responsible attorney within the Division as well as to the appropriate U.S. Attorney's

matter which presents a violation of federal law is also a matter involving a local or state law violation, deference is given to local prosecutions unless federal interests are deemed to be unvindicated. But if the results of the state or local proceedings are insufficient, or in the absence of any such action, a federal prosecution can be brought.

Allegations of official misconduct constitute the majority of all complaints reviewed by the Section. The officials who have been defendants include police officers, federal law enforcement officers, correctional officers, and a county judge. These officials have been charged with using their positions to deprive individuals of constitutional rights, such as the right to be free from unwarranted assaults, illegal arrests and searches, and the right to be free from deprivation of property without due process of law. Examples of recent litigation include the following:

Eleven correctional officers at a Mississippi state penitentiary were charged in the beating of an escaped inmate when he was recaptured and handcuffed. The inmate was kicked a dozen times, thrown into the back of a pick-up truck and hit several times in the head, face and shoulder with guns. He suffered several lacerations and a severed artery. Six of the defendants pled guilty. The trial for the remaining five defendants resulted in two convictions and three acquittals.

A New Orleans police officer and two other individuals were charged with conspiring to murder a woman who witnessed the police officer beat a young man. The day after she reported the beating incident to the police department's Internal Affairs Division, the woman was shot to death while standing on a street corner.

In an ongoing investigation conducted by the U.S. Attorney's Office, nine New York City police officers pled guilty to conspiracy and drug violations stemming from a police corruption investigation that uncovered a series of illegal activities including the use of excessive force, unlawful searches and the theft of money and/or drugs from various individuals and apartments. The officers allegedly received money from drug dealers for not interfering with their drug dealing.

In Texas, a Galveston police officer was sentenced to 15 years in prison and fined \$1,000 after being convicted of repeatedly coercing women into engaging in sexual acts by threatening them with jail or physical harm. A Bureau of Indian Affairs officer was sentenced to 30 months in prison after pleading guilty to raping a young Indian woman when she was being detained at a BIA detention facility in Arizona. A sheriff in Gulf County, Florida was convicted of using his position as sheriff to coerce five female county jail inmates to engage in sexual acts with him.

More recently, other cases have been filed in which women were sexually abused by law enforcement officials. In California, an inspector with the U.S. Immigration and Naturalization Service was indicted for sexually assaulting a foreign national who was appealing the confiscation of her border-crossing card. In Mississippi, an Alcorn County justice court judge pled guilty to sexually assaulting a female during the course of a discussion between the two regarding legal matters.

Incidents involving violent and intimidating acts of racial, ethnic and religious hatred are also a high priority for prosecution. Since 1989, approximately 500 defendants in more than half of the 50 states have been convicted on federal criminal civil rights charges for interfering with various federally protected rights (such as housing, employment, voting, and public services) of black, Hispanic, Asian, Native American, and Jewish victims. In addition, many cases included charges of criminal conspiracy, particularly where the defendants were members of organized hate groups, such as the Ku Klux Klan, The Order and various racist Skinhead gangs. Since 1989, virtually all defendants charged in these cases have been convicted.

Among those prosecuted were two defendants in Georgia who were charged with housing interference stemming from a drive-by shooting into several homes of African-American residents. In the state of Washington, a defendant pled guilty to conspiring to interfere with the housing rights of an interracial couple at whose home a cross was burned. At the time of the incident, swastikas were painted in red spray paint on the sidewalk in front of the home. In Rhode Island, a defendant pled guilty to conspiracy involving an incident in which two crosses were burned in front of the home of an African-American couple. This incident followed two months of racial harassment by white neighbors.

Other cases have been filed involving other federally protected rights. In Nebraska, two defendants were convicted on Hobbs Act charges stemming from a conspiracy to interfere with the rights of two Native Americans from the Rosebud Reservation. After offering a ride to the victims, the defendants allegedly drove to a remote location where the victims were robbed, punched, and kicked, resulting in broken ribs and other injuries. After conviction, the judge granted the defendants' post-trial motion for judgment of acquittal and the Division is appealing that decision.

In Texas, three defendants were indicted for allegedly harassing, intimidating and/or assaulting African-Americans who came into contact with the defendants in downtown Fort Worth. In the most serious incident, one victim, who was waiting for a bus, was repeatedly punched about the head and body until he was knocked unconscious.

In Maine, two defendants pled guilty to interfering with federally protected activities by using racial slurs and threatening four Hispanic victims who were at a store. As the victims drove away from the store, the defendants followed them, fired shots at the victims' car and wounded one victim in the arm.

Members of organized hate groups have also been prosecuted. Four members of a racist Skinhead group, "The New Dawn Hammerskins," were charged with conspiring to interfere with the rights of African-American and Jewish individuals in the Boston area. Two synagogues were desecrated, swastikas were painted on a Jewish cemetery's headstones, and the car of a teacher of the Holocaust was vandalized. In addition, the defendants allegedly used baseball bats and other weapons to harass and intimidate African-Americans on the streets and at a shopping mall. One defendant later pled guilty and the three juveniles were convicted.

In Indiana, four Ku Klux Klan members were charged with conspiring to interfere with the housing rights of a black couple who were assaulted in their apartment. The defendants yelled racial slurs and threats, broke windows, struck one of the victims with a stick and fired a gun at the victim's front door. After one conviction and three guilty pleas, the four Klan members received substantial prison sentences ranging from 90 to 264 months.

Three white-supremacist Skinheads pled guilty to conspiracy in the firebombing of an NAACP office and gay bar in Washington State. Two of them also pled guilty to several explosives and firearms violations stemming from the firebombings. One Skinhead was sentenced to 11 years and eight months in custody, while the other two each received 57 and 78 months, respectively, in prison.

Although in recent years there has been a substantial decrease in the reported number of involuntary servitude and peonage allegations, the Section obtained pleas in a North Carolina case where two homeless men in Atlanta had been recruited, along with other homeless men, to work in migrant farm camps in the Carolinas. On different occasions, the men were threatened by the defendants at gunpoint against leaving the camps. Over the course of weeks, the men received physical threats, and were told they owed money and could not leave the camps. Two of the three defendants received prison sentences and fines, while the third one was sentenced to home detention and community service.

Sharing joint enforcement authority with the Department's Criminal Division, the Section is also vigorously pursuing violations under the recently enacted FACE, having already charged 13 defendants in three cases. The Criminal Section, in conjunction with the local U.S. Attorney, obtained its first conviction under the new act against defendant Paul Hill for the brutal execution of a physician and his escort, and the attempted execution of the escort's wife in front of a reproductive health services clinic in Pensacola, Florida. Ordered to pay the victims' funeral and medical expenses, Hill was sentenced to life without parole plus five years. Recently, six defendants were convicted of obstructing the entrance to a reproductive health clinic in Milwaukee when they cemented and chained themselves to cars that were driven up to the entrance doors. All six received prison sentences and fines.

Disability Rights Section
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The Disability Rights Section protects the rights of persons with disabilities under Titles I, II, and III of the Americans with Disabilities Act (ADA). The ADA prohibits discrimination on the basis of disability in places of public accommodation, including all hotels, restaurants, retail stores, theaters, health care facilities, convention centers, parks, and places of recreation (Title III); in all activities of state and local governments (Title II); and in all employment practices of state and local government employers with 15 or more employees (Title I). The ADA also establishes architectural accessibility requirements for new construction and alterations of commercial facilities, which generally include all nonresidential buildings and facilities.

The Section's responsibilities under the ADA include:

- Litigation under Title III of the Act and litigation on referral from federal agencies under Title II;
- Litigation against public employers under Title I of the Act on referral from the Equal Employment Opportunity Commission or under the Attorney General's independent pattern or practice authority;
- Certification of state and local building codes for equivalency with the requirements of the ADA Standards for Accessible Design;
- Dissemination of technical assistance information, coordination of the technical assistance activities of other federal agencies with enforcement responsibilities under the ADA, and provision and monitoring of technical assistance grants; and
- Coordination of the administrative enforcement of Title II of the ADA and Section 504 of the Rehabilitation Act by other federal executive agencies.

The Disability Rights Section has pursued a comprehensive program of enforcement and technical assistance activity under the ADA. Through lawsuits and both formal and informal settlement agreements, the Division has achieved greater access for persons with disabilities in nearly 350 cases involving state and local government entities and the private sector. The resolution of these complaints has resulted in the removal of physical barriers, the provision of auxiliary aids, and the elimination of discriminatory policies in a wide variety of settings, including hotels, restaurants, retail stores, private schools, health clubs, and banks.

The City of Philadelphia entered into an agreement resolving a complaint alleging that emergency medical technicians (EMT's) of the Philadelphia Fire Department had refused to assist an individual when they learned that he had HIV. Philadelphia agreed to conduct mandatory training of the fire department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV/AIDS, as well as to provide HIV/AIDS sensitivity training. In addition, Philadelphia will provide \$10,000 in compensatory damages to the individual denied services.

The Section is pursuing litigation against the State of Illinois, the City of Aurora, and Aurora's police and fire pension funds for excluding police officers and firefighters from the pension funds on the basis of disability. Under the challenged system, police officers and firefighters are required to undergo separate physical examinations after they are hired, to determine eligibility for retirement and disability benefits. The case resulted from the complaint of an Aurora police officer who was ruled ineligible for pension benefits because he has diabetes.

The Section resolved by consent decree a lawsuit involving accessibility problems at the Hyatt Regency Hotel in Dallas, Texas. Under the consent decree, the Hyatt Corporation and the owners and asset managers of the hotel agreed to provide 28 fully accessible guest rooms; modify three sets of restrooms on the first, second, and third floors of the hotel to make them accessible; and construct ramps providing access to the hotel's swimming pool and hot tub areas. The defendants will also offer 24 individuals with disabilities, compensation in the form of either a return visit to the hotel at the defendants' expense or \$1,500 in cash. The lawsuit arose from a complaint filed with the Section by several children and adults who

attended a conference of the Spina Bifida Association of America at the landmark hotel in June 1992.

The Section has spurred reform efforts nationwide by participating in legal challenges to the mental health inquiries made of applicants for professional licenses (law and medicine) by state licensing officials. In New Jersey, Florida, and Virginia, the Department has argued as *amicus curiae* that broad questions pertaining to a history of treatment or counseling for mental, emotional, or nervous conditions that are not drawn to focus on current impairments of an applicant's fitness to practice a given profession are discriminatory under Title II of the ADA. In response, many states have eliminated or substantially narrowed the questions asked of individuals seeking professional licenses.

The Section also engages in a wide range of technical assistance activities designed to raise public awareness of the ADA, including the issuance of updates to the Division's ADA Technical Assistance Manuals, the operation of a toll-free ADA telephone information line, mass-mailings to entities covered by the ADA, and the maintenance of an electronic bulletin board and Internet files allowing direct access to ADA materials by personal computer users. The Section has also disseminated an ADA information file containing 33 ADA publications to 15,000 libraries and 6,000 chambers of commerce nationwide. In addition, the Section administers a technical assistance grant program that has awarded over \$8.2 million in funds to support projects that will inform the private sector, state and local governments, and individuals with disabilities about their rights and responsibilities under the ADA.

The Section is providing technical assistance to state and local governments that wish to obtain certification that their building codes meet the ADA Standards for Accessible Design. It is also working with the private organizations responsible for model building codes to help ensure that their standards will meet the federal accessibility requirements. In the first certification issued under the ADA, the Section certified that the Washington State Regulations for Barrier Free Design meet or exceed the requirements of the ADA Standards for Accessible Design.

Educational Opportunities Section
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The Educational Opportunities Section enforces federal statutes which prohibit public school officials from engaging in discriminatory practices. The laws for which this Section has responsibility include Title IV of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974. In addition, the Section enforces Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act with respect to students enrolled in public educational institutions. The Section may intervene in private suits which allege violations of education-related anti-discrimination statutes and the Fourteenth Amendment of the Constitution. Finally, the Section has responsibility for representing the Department of Education in certain types of suits filed against the Secretary of Education, as well as for filing suits on behalf of the Secretary when school districts and colleges fail to comply with Department of Education regulations.

The Supreme Court's landmark decision in Brown v. Board of Education mandates that public school officials not assign students to schools and classes on a racial basis, or deny students equal educational opportunity on the basis of race or color. Subsequent federal legislation and court decisions mandate that school officials not discriminate against students on the basis of gender or language barriers. Thus, the Section's work covers a variety of legal issues involving both elementary and secondary schools and institutions of higher education.

The Section continues to litigate a large number of cases in which it challenges practices of school districts which result in illegal student segregation. Such discriminatory practices usually involve decisions of school districts in reorganizing the structure of a district, new methods of assigning students to classes, constructing new schools, and modifying student attendance zones. Moreover, in recent years, an increased number of complaints have been received involving the failure of districts to provide minority students equal educational opportunity and the failure to address language barriers faced by students with limited English speaking skills. For example, in United States v. Darlington School District, an investigation

revealed that the school district was continuing to assign students on a racial basis, engaging in discriminatory employment practices, and maintaining a school located in a black community as an inferior school. The government filed suit against the district and obtained appropriate relief.

In Lee & United States v. Macon (Randolph County, Alabama), a principal at an Alabama high school called a student assembly in which he made several statements in opposition to interracial dating and cancelled the prom when he learned that several students planned to attend with dates of a different race. This incident buttressed a series of investigations which established that the Randolph County School Board had not fully implemented its desegregation orders in the areas of faculty and administrative hiring, discipline, and curriculum and that the Randolph County School District had created a racially hostile environment. As a result of months of settlement negotiations, the United States, private plaintiffs, and the school board agreed to a consent decree enjoining the school district from engaging in discrimination in these areas and directing that the school district take remedial measures in the operation of the school district. Finally, with regard to the principal, the school board agreed to permanently reassign the principal to an administrative position in which he has no contact with students.

In another case, the Section investigated allegations that Native American students in Utah were being denied equal educational opportunities because of their race and limited English-speaking proficiency. Among other things, the school officials were accused of failing to provide academic courses and extracurricular offerings at predominantly Indian schools which were comparable to predominantly white schools; failing to overcome language barriers faced by Indian students; and refusing to build a high school in a remote area populated mostly by Indians, while placing schools in remote areas populated largely by whites. The United States intervened in two private suits, Sinajini v. San Juan County Sch. Dist. and Meyers v. San Juan County Sch. Dist., to challenge these practices.

In addition to its work involving elementary and secondary school districts, the Section enforces statutes which prohibit discrimination on account of race, sex, national origin, color, and religion with respect to public institutions of higher education. Recently, the Section litigated two cases

involving the desegregation of state systems of higher education. Knight and the United States v. State of Alabama was again before the district court on remand from the Eleventh Circuit to consider issues regarding mission, land grant, and curriculum. A seven-week trial was conducted. In United States v. Fordice, on remand from the Supreme Court, a ten-week trial was conducted concerning whether the State of Mississippi had eliminated all vestiges of its former racially dual system of higher education with respect to student admissions, funding, school facilities, and student services. Similar issues concerning the State of Louisiana were resolved by Consent Decree.

Additionally, the Section filed suit pursuant to Title IV of the Civil Rights Act challenging the male-only admissions policy of the Virginia Military Institute (VMI) as violative of the Fourteenth Amendment. The government ultimately prevailed at the liability stage and a remedial trial was held in February 1994. The defendants proposed creating a parallel leadership program for women at Mary Baldwin College, a private women's college located about 45 miles from VMI. The government objected to the proposal because the institute failed to provide women many of the opportunities and benefits available to men who attend VMI. The district court approved the parallel program at Mary Baldwin, and the case is on appeal.

Faulkner v. Jones involved the same issue concerning The Citadel in South Carolina. In August 1993, the district court granted a preliminary injunction, allowing Ms. Faulkner to attend daytime classes (but not the Corps of Cadets) pending a trial on the merits. Both the Fourth Circuit and the Supreme Court refused to overturn the order allowing Ms. Faulkner to attend daytime classes. Ms. Faulkner began classes on January 20, 1994. Following a ten-day trial in May, 1994, the district court found the only available remedy to be Ms. Faulkner's immediate admission to the Corps of Cadets. The court of appeals stayed the district court's order pending appeal. In April 1995, the Fourth Circuit affirmed and remanded the district court's order, ruling that Ms. Faulkner must be admitted to the Corps of Cadets in the fall of 1995 absent approval of an acceptable alternative remedy. The court deferred fall 1995 relief as to other interested women, directing that a new schedule be established for defendants to develop a remedial plan.

Finally, the Section has defended the constitutionality of Title IX, which prohibits sex discrimination in intercollegiate athletics. It is important to point out that most of the cases handled by the Section involving discrimination by public universities go to the Supreme Court on petitions for certiorari, and most of the cases involving elementary and secondary cases are actively litigated.

Employment Litigation Section

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The Employment Litigation Section enforces against state and local government employers the provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 and the Pregnancy Discrimination Act of 1978, and other federal laws prohibiting employment practices that discriminate on grounds of race, sex, religion, and national origin.

The Section initiates litigation in two ways. Under the statutes it enforces, the Attorney General has authority to bring suit where there is reason to believe that a "pattern or practice" of discrimination exists. Generally, these are factually and legally complex cases that seek to alter an employment practice, such as recruitment, hiring, assignment and promotions, which has the purpose or effect of denying employment or promotional opportunities to a class of individuals. For example, under this authority the Section has initiated litigation challenging:

- the residency requirements of 35 suburban communities that had the purpose or effect of excluding minorities who lived in nearby cities;
- the hiring and/or testing practices of state and local police and fire departments as being discriminatory against minorities and females;
- the hiring and assignment practices of state and county penal

institutions that discriminate against female applicants for correctional officer positions;

- the ineffective and inadequate handling of sexual and racial harassment complaints by a state department of corrections;
- gender segregation and discrimination in pay against women in non-traditional public service jobs; and,
- discrimination in pay and benefits against ethnic minorities.

In cooperation with the Educational Opportunities Section, the Section also sought and obtained relief for black public school teachers in one of the Department's existing desegregation cases.

Under its pattern or practice authority, the Section obtains relief in the form of offers of employment, back pay and other compensatory relief for individuals who have been the victims of the unlawful employment practices. These cases very frequently are resolved by consent decree prior to trial. The Section is in the process of distributing: \$7.2 million to an estimated 1,500 black and female victims in litigation that challenged state-administered selection procedures for municipal police, sheriff's officer and correctional officer positions throughout New Jersey; \$1.2 million to an estimated 150 women denied employment as deputy sheriffs by the Kern County, California Sheriff's Department; \$700,000 in back pay and pension relief to a yet to be determined number of blacks and females who were discriminated against by the City of Belleville, Illinois; \$450,000 in back pay and other relief to black applicants who unlawfully had been denied employment as police and firefighters by the City of Hialeah, Florida; and \$2.2 million in back pay and other relief to approximately 150 Filipino teachers who had been discriminated against by the Public School System of the Northern Mariana Islands on the basis of national origin in salaries, benefits and terms of conditions of employment.

The Section's second enforcement mechanism is the filing of suits based upon individual charges of discrimination referred to the Department of Justice by the Equal Employment Opportunity Commission (EEOC). Charges are filed with the EEOC by individuals who believe that they were

unlawfully denied an employment opportunity or otherwise discriminated against by a state or local government employer. If, after investigation, the EEOC determines that a charge has merit and efforts to obtain voluntary compliance are unsuccessful, the EEOC may refer it to this Department. The Department of Justice then has authority to determine whether or not to initiate litigation. A limited number of these suits are initiated each year. While small in scope when compared to pattern or practice suits, these are cases that might not be pursued without the Section's participation and they often address types of discrimination that may not be remediable through pattern or practice suits. Suits initiated under this authority have involved, for example, allegations of harassment, retaliation, involuntary reassignment, failure to promote, discrimination on the basis of pregnancy, unlawful discharge and religious discrimination.

Based upon referrals from the EEOC, the Section recently has obtained: in two separate lawsuits against different defendants, \$93,000 and \$12,500 for victims of religious discrimination; \$44,000 and an offer of reinstatement for a victim of sexual harassment; \$111,000 for two black correctional officers who had been discharged on the basis of race; \$76,000 for an Hispanic police lieutenant who had been unlawfully demoted; \$50,000 for a female firefighter who was discharged for having filed a charge of employment discrimination; \$165,757 (with reinstatement and retroactive seniority) to a black male unlawfully discharged; and \$70,000 to a female janitor who had been discriminated against on the basis of gender.

The Section also represents the Departments of Labor and Transportation and other federal agencies when they are sued for what is alleged to be overzealous enforcement of federal laws that prohibit discrimination and/or require affirmative action by government contractors or recipients of federal financial assistance. In addition, the Section has authority to prosecute enforcement actions upon referral by the Department of Labor of complaints arising under Executive Order 11246, which prohibits discrimination in employment by federal contractors.

Attorneys assigned to the Employment Litigation Section concern themselves with all aspects of complex litigation, including investigation of complaints of employment discrimination, recommendations for litigation, discovery, settlement negotiations, trial of complaints that have not been

voluntarily resolved, and implementation of court orders for remedial and injunctive relief. Frequently, the Section's litigation raises issues of constitutional law and may involve the testimony of expert witnesses, such as industrial psychologists, exercise physiologists, economists and statisticians. The litigation handled by the Section is national in scope, and attorneys can expect to work extended hours and to travel extensively.

Housing and Civil Enforcement Section

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The Housing and Civil Enforcement Section has principal responsibility for enforcing the Fair Housing Act of 1968, as amended, which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, handicap and familial status. The Act has been held to apply not only to actions by direct providers of housing but also to actions by such entities as municipalities, banks, and insurance companies whose discriminatory practices have otherwise made housing unavailable to members of the classes accorded protection. Accordingly, the Section's enforcement activities have reached a broad array of discriminatory practices.

Under the Fair Housing Act, the Section is responsible for bringing cases on behalf of individuals who have filed discrimination complaints with the Department of Housing and Urban Development (HUD) and where HUD has determined that reasonable cause exists to believe that discrimination has occurred and one of the parties to the action elects to have the case heard in federal court. The lawsuits seek injunctive relief as well as monetary damages for victims of discrimination. The Section is also responsible for seeking temporary restraining orders and preliminary injunctions when HUD authorizes such actions during the course of their investigations.

The Section also implements a pro-active enforcement program pursuant to authority under the Fair Housing Act to challenge patterns or practices of unlawful discrimination. Recently, the Section initiated a nationwide program of random testing of housing developments, seeking evidence of discriminatory practices -- practices which, without the evidence provided by such testing, are often difficult to prove because of the often

sophisticated nature of housing discrimination. In the program, for example, in a test for race discrimination, pairs of black and white persons trained by Section personnel pose as prospective tenants and are sent to apartments to ask about available units. In the first pattern or practice cases brought using the evidence developed, the Section obtained consent decrees in six cases against housing providers in suburban Detroit which required the defendants to pay a combined total of over a million dollars in damages to victims and civil penalties. Since then cases based on evidence from the testing program have been initiated in South Dakota; Akron, Ohio; Los Angeles; Indianapolis; Miami; and St. Louis. The cases in South Dakota alleged discrimination against Native Americans and the other testing cases alleged discrimination against African-Americans and against families with children. In addition, testing evidence continues to be gathered in several other locations throughout the country to uncover discrimination against African-Americans, persons of Hispanic origin and other protected classes under the Fair Housing Act.

In another major initiative under our pattern or practice authority, the Section has initiated several investigations of banking institutions throughout the country to attack discrimination in home mortgage lending. The first suit pursuant to this initiative was against one of the largest lenders in the Atlanta area, and the Section was able to resolve the case with the entry of a consent order which required the lender to provide \$1 million dollars to 48 black individuals whose home mortgage loan applications were rejected between January 1988 and May 1992 and to undertake an affirmative program to revise its lending practices. More recently, in a suit against a lender in the Washington, D.C. area, the Section obtained a settlement that requires the bank to provide \$11 million dollars in funds to be used in a variety of ways to benefit the minority community. Three other cases involving banks in Boston; Martin, South Dakota; and Vicksburg, Mississippi, have been filed and settled with similar consent decrees. Investigations pursuant to this initiative continue and the Section is also working closely with the bank regulatory agencies to combat illegal lending discrimination.

In suits alleging discrimination on the basis of familial status, the Section has filed numerous actions on behalf of individuals who have been unable to obtain housing because of the presence of children in the family who were under 18 years of age. In one such case arising in New Mexico,

the Section obtained a ruling which ordered the payment of \$142,000 in compensatory damages and civil penalties. In another case concerning a subdivision in Florida, a jury awarded monetary relief of over \$440,000. The Section has also actively pursued litigation on behalf of individuals with disabilities, including litigation seeking to secure the right of such individuals to live in group homes in good neighborhoods despite restrictive zoning or neighborhood covenants which, if enforced, would have prevented the operation of such homes. In addition, the Section has filed cases on behalf of individuals who have been discriminated against on the basis of their national origin. In one such case in California the court ordered, following a trial, payment of over \$60,000 in damages to an Hispanic couple.

In addition to its enforcement responsibilities under the Fair Housing Act, the Section enforces the Equal Credit Opportunity Act which prohibits discrimination in credit transactions and Title II of the Civil Rights Act of 1964 which prohibits discrimination in places of public accommodations, such as hotels, restaurants and places of entertainment. Under the Equal Credit Opportunity Act, the Section has filed suits against banks, finance companies, and vacation resort areas. Under Title II, the Section filed suit alleging that Denny's Inc., a major nationwide restaurant chain, had engaged in a pattern or practice of discrimination against black customers. At the same time, the Section filed a consent decree resolving the dispute by requiring the chain to cease all alleged discriminatory practices, to implement a testing program to monitor compliance, to undertake an educational program of its employees, and to advertise in an affirmative manner. The Section has also filed other cases in various districts throughout the country under Title II against the owners of hotels, health clubs, restaurants, nightclubs and other places of public accommodations.

**Office of Special Counsel for Immigration
Related Unfair Employment Practices**
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The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) investigates and prosecutes employers charged

with national origin and citizenship status discrimination, as well as document abuse and retaliation under the antidiscrimination provision of the Immigration and Nationality Act (INA). Congress created OSC because of concern that making employers subject to civil and criminal sanctions for knowingly hiring individuals unauthorized to work in the United States might result in discrimination, either against those who look or sound "foreign" or who are not U.S. citizens.

Injured parties file charges of alleged national origin or citizenship status discrimination in hiring, firing, recruitment or referral for a fee, document abuse, or retaliation directly with OSC's Washington, D.C. office. A staff attorney investigates charges with the assistance of an investigator. The staff attorney is responsible for handling all matters pertaining to the litigation of meritorious claims.

Complaints are tried before Administrative Law Judges (ALJ) that are specially trained to hear discrimination cases that arise under Section 102 of the Immigration Reform and Control Act of 1986 (IRCA). Pre-trial matters are generally handled in accordance with rules of civil procedure, and involve discovery, depositions and pleadings. The administrative hearing is conducted much like a civil trial. Each side files post-hearing briefs and the ALJ's decision is directly appealable to a federal court of appeals. Settlements or successful adjudications may result in civil penalty assessments, back pay awards, hiring orders and the imposition of other remedies.

OSC also initiates independent investigations based on information developed during the individual charge investigations or from leads provided by other government agencies or the general public. Independent investigations normally involve employers with alleged discriminatory policies that potentially affect many employees or applicants. These investigations can result in complaints alleging a pattern and practice of discriminatory activity.

In addition, OSC conducts an outreach and education program aimed at educating employers, potential victims of discrimination and the general public about their rights and responsibilities under INA's antidiscrimination and employer sanctions provisions. Each year OSC awards grants to nonprofit organizations across the country to conduct local public education

campaigns. Additionally, aside from their investigatory and litigation duties, OSC attorneys participate in many public education and outreach activities. This participation includes making presentations at conferences, seminars and meetings held by interested groups regarding employer and employee rights and obligations under INA.

OSC litigation has established that citizenship status discrimination does not have to be motivated by a fear of employer sanctions in order to violate the statute. In United States v. Mesa Airlines, for example, an employer who preferred to exhaust all pilot applications submitted by citizens prior to considering applications from aliens was found to have committed citizenship status discrimination. The ALJ found that the fact that this policy predated INA's employer sanctions provision and thus, could not have been motivated by a fear of sanctions was irrelevant to the citizenship status discrimination finding. Further, in United States v. Southwest Marine Corp., the court found that charging parties can prove they are victims of discrimination without showing that an employer was motivated by a bias against non-citizens.

In United States v. A.J. Bart, the ALJ concluded that demanding that a citizen produce a birth certificate to establish work authorization constituted both citizenship status discrimination and document abuse. In addition, the ALJ found the company committed a pattern and practice of document abuse by demanding that new hires produce specific documents to prove identity and work authorization. In United States v. Guardsmark, OSC successfully argued that the document abuse provision applied to all work-authorized aliens, not just those protected from citizenship status discrimination. The settlement of this case included a \$120,000 civil penalty.

In Re Investigation of Florida Azalea Specialists, confirmed an ALJ's power to issue subpoenas (on the ALJ's initiative or at the request of OSC) prior to the filing of a complaint. In General Dynamics v. United States, the Ninth Circuit held that the United States is immune from attorneys' fees as a nonprevailing party in cases brought pursuant to INA's antidiscrimination provision.

In United States v. McDonnell Douglas, OSC alleged that the company rejected qualified U.S. workers (i.e., permanent residents, temporary

residents, refugees, and asylees), in favor of temporary foreign workers. The company's settlement with OSC included a \$10,000 civil penalty and \$20,000 in back pay. Similarly, in United States v. S.A. Chaissan & Sons, OSC alleged that this company preferred to hire temporary foreign workers in lieu of U.S. workers to pick apples. The settlement in this case included almost \$10,000 in civil penalties and back pay.

Immigration related unfair employment practices involves OSC in protecting the rights of all work-authorized individuals. It is an evolving area of the law, and the Division will give priority to its full enforcement.

Special Litigation Section
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The Special Litigation Section is responsible for protecting the constitutional and federal statutory rights of persons confined in certain institutions owned or operated by state or local governments. These institutions include facilities for individuals who are mentally ill and developmentally disabled, elderly persons in nursing homes, inmates in prisons and jails, and juveniles confined in detention halls. The Section derives its authority from the Civil Rights of Institutionalized Persons Act (CRIPA), enacted in 1980.

The Section also enforces the civil provision of 18 U.S.C. § 248, Freedom of Access to Clinic Entrances Act of 1994 (FACE), which prohibits "force or threat of force or . . . physical obstruction" for the purpose of injuring, intimidating or interfering with a person seeking to obtain or provide reproductive health services.

Section attorneys handle a broad array of activities designed to vindicate the federal rights of institutionalized persons. These activities range from the review of complaints and monitoring of court orders to the litigation of large, complex institutional reform cases. In general, the investigations consist of a comprehensive review of all aspects of the institution under investigation. The Special Litigation Section is at the cutting edge of defining the rights of people with disabilities confined in residential facilities

and ensuring that the rights of juveniles, prisoners, and elderly people are fully protected.

In facilities where persons with mental disabilities are confined, investigations examine the availability and adequacy of treatment and training programs designed to improve their mental health and develop their skills to live as independently as possible. Various legal theories are employed to create alternatives to warehousing disabled people in isolated institutions. These strategies require the development of integrated programs in the community, e.g., group homes. The adequacy of daily care provided to the residents is also a major area of inquiry. In prisons and jails, the investigations evaluate, among other things, the extent of violence, overall security, adequacy of medical and mental health care, suicide prevention and crowding. Juvenile investigations emphasize these issues as well as the provision of adequate educational services.

Each investigation involves tours of the institution with consultants whose expertise covers the areas where deficiencies are believed to exist, review of the relevant practices and procedures at the facility, evaluation of records, and interviews with staff and other individuals with knowledge about the conditions at the institution. Following notification, as required by CRIPA, to appropriate state or local officials of violations found, Section lawyers endeavor to negotiate a consent decree designed to improve conditions to ensure the provision of appropriate services. If the state or local officials do not agree to correct the deficiencies after negotiation with Section attorneys, CRIPA authorizes the Attorney General to promptly file suit.

In addition to its activities under CRIPA, the Section has partial responsibility for enforcing Section 504 of the Rehabilitation Act of 1973, which prohibits recipients of federal financial assistance from discriminating against the physically handicapped or developmentally disabled individuals; and the Americans with Disabilities Act as it relates to institutionalized mentally disabled persons or such individuals being served in various other residential programs.

The Section also has enforcement responsibilities with respect to federal laws prohibiting discrimination in public facilities on the basis of race,

color, sex, religion or national origin and requiring a free and appropriate public school education for physically handicapped and developmentally disabled children. Finally, the Section is called upon to evaluate and comment upon proposed legislation and Presidential directives that involve people who are mentally ill, physically handicapped and developmentally disabled.

The Section won a resounding victory in the first fully litigated CRIPA case when a Tennessee federal court found massive violations of the constitutional rights of developmentally disabled residents of a large residential facility. More recently the district court found the defendants in civil contempt of various provisions of the preliminary injunction entered in the case. Other activities have been initiated to reduce institutional populations, expand community based programs and services, and to phase out old, antiquated institutions for the mentally disabled.

In addition, the Section has been responsible for a highly visible investigation of numerous jails throughout Mississippi where suicides had occurred. Eighteen city and county jails throughout Mississippi, both large and small, urban and rural, were investigated as a group by a team of lawyers. Consent decrees have been negotiated with most jurisdictions; 8 counties or cities have agreed to construct new jails.

Further, a number of enforcement and civil contempt motions have been filed to require state officials to implement outstanding orders; these proceedings have resulted in substantial relief, including the appointment of court monitors and special masters to facilitate the implementation of necessary remedies.

Investigatory and enforcement activities involve all types of institutions and have ranged geographically from the Virgin Islands to Maine, from the state of Washington to Puerto Rico to the Territory of Guam.

Civil action to enforce the provisions of FACE have been brought in the states of California, Ohio, Wisconsin, and North Dakota, and investigations are ongoing in other states. A number of preliminary injunctions have been entered in the filed cases requiring defendants to stop

various illegal activities barring lawful access to clinics offering reproductive health services.

Finally, the Section enforces §210401 of the Violent Crime Control and Law Enforcement Act of 1994, which authorizes the Attorney General to seek equitable and declaratory relief to redress a pattern or practice of illegal conduct by police law enforcement agencies, e.g., the police department, or by officials or employees of any governmental agency. Investigatory activities continue.

Voting Section

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The Voting Section is responsible for the enforcement of the Voting Rights Act of 1965, the Voting Accessibility for the Elderly and Handicapped Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act of 1993, and other statutory provisions designed to safeguard the right to vote of racial and language minorities, disabled and illiterate persons, overseas citizens, persons who change their residence shortly before a Presidential election, and persons 18 to 20 years of age.

To carry out its mission, the Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgements of the right to vote; defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General; reviews changes in voting laws and procedures administratively under Section 5 of the Voting Rights Act; and monitors election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act.

Section 5 of the Voting Rights Act of 1965 is one of the special provisions of the Voting Rights Act that applies to nine states in their entirety (primarily in the South and Southwest) and one or more counties in seven other states. By the operation of Section 5, any change with respect to voting that a specially covered jurisdiction -- or any political subunit within it -- makes is legally unenforceable unless and until the jurisdiction obtains from the federal court in the District of Columbia or from the Attorney General a

determination that the change is not discriminatory on account of race, color, or membership in a language minority group. If the jurisdiction is unable to prove the absence of such discrimination, the Attorney General objects to the change, and it remains legally unenforceable.

The Voting Section is responsible for reviewing voting changes submitted to the Attorney General (15,000 to 24,000 changes each year) and for defending Section 5 litigation in court. The Voting Section brings lawsuits to enjoin the enforcement of voting changes that have not received the required Section 5 preclearance. For example, early in 1994, Lee County, South Carolina, finally achieved a precleared redistricting plan for the election of its county council and school board, whose members had been holding over for two years. The special primary election scheduled by the county, however, did not provide sufficient time for voters to become familiar with the new lines or for minority candidates to conduct effective campaigns. Because the special election schedule had not been precleared (an objection was subsequently interposed), the Section filed suit, and in October 1994 the court granted summary judgment, enjoining the county from going forward with the general election. In a strong opinion, the court discussed the broad coverage of Section 5 and reaffirmed its applicability to special election schedules.

Recent objections interposed under Section 5 have been directed at procedures to implement the new National Voter Registration Act that would have a discriminatory effect on minority voters; redistricting plans; the use of at-large elections, majority vote requirements, and nonpartisan elections; the creation of judgeships under electoral systems in which minorities do not have a fair opportunity to elect candidates of their choice; the abolition of an elected school board with a method of election ordered in private litigation under the Voting Rights Act; annexations where minority residential areas were excluded from the territory to be annexed; and Spanish language election procedures.

Prominent among the Section's litigation are lawsuits involving Congressional redistricting plans drawn to provide minorities in Florida, Georgia, Louisiana, North Carolina, and Texas fair opportunities to elect candidates of their choice to the U.S. House of Representatives (and, in Florida, the state legislature as well). The constitutionality of these plans is

under attack as a result of the Supreme Court's decision in Shaw v. Reno. The Section is participating and will continue to participate in this type of action, either as defendant-intervenor or as amicus curiae, to defend the principle that race-conscious redistricting to further the goals of the Voting Rights Act is consistent with the requirements of the Constitution. The Section was successful in the North Carolina action, and the Department is pursuing appeals of adverse rulings in the Georgia, Louisiana, and Texas actions.

Enforcement of the minority language requirements of the Voting Rights Act (extended and expanded by Congress in 1992) is also a Section priority. The Section has been successful in lawsuits filed under Section 2 and under the minority language provisions of the Voting Rights Act to remedy the failure of state and local officials in Arizona, New Mexico, and Utah to disseminate effectively in the Navajo and Pueblo languages election information, including adequate oral translations of the ballot for Native American voters who need it on election day, and to remedy other election practices that deny Native American citizens an opportunity to participate in electoral activities on an equal basis with other citizens. Lawsuits brought by the Section against Cibola, Sandoval, and Socorro Counties, New Mexico, to remedy their inadequate minority language compliance, were resolved in 1994 through the entry of favorable consent decrees. Information provided by federal observers who monitored elections under Section 8 of the Voting Rights Act provided much of the foundation for these and other similar suits, and continuing federal observer coverage enables the Section to monitor compliance programs provided in consent decrees. Most recently, the Section has filed suit against Alameda County, California, to remedy the failure of county officials to provide election and voting information and assistance in the Chinese language to those citizens who need it; a consent decree filed with the complaint would achieve compliance by the county with the minority language requirements.

Following the November 2, 1993, election, the Voting Section initiated investigations of activities allegedly designed to intimidate minority voters in Philadelphia and New York City. In Philadelphia, prior to election day, campaign workers for a candidate in a special election walked door to door in Hispanic neighborhoods to convince or coerce voters to cast absentee ballots, allegedly misleading the voters about the documents they were

signing, or steering or intimidating the voters into voting for the Democratic candidate (voters indicated they were misled about the state's absentee voting laws and told they could vote at home, as a "new way of voting"). In New York City, signs in English and Spanish were posted on lamp posts, at subway entrances, on phone booths and other locations in areas of Hispanic population in Manhattan, Brooklyn and the Bronx, misinforming voters regarding the role of federal officials in the election. The signs incorrectly stated that federal authorities, including immigration officials, would be at the polls, and threatened illegal voters with prosecution, severance of benefits and deportation.

The Voting Section has the responsibility of enforcing the National Voter Registration Act of 1993 (NVRA), which went into effect on January 1, 1995, to assure that states and local jurisdictions follow the motor-voter, mail and agency-based voter registration procedures, and the voter purge protections that Congress specified. In the early weeks of 1995, the Section filed lawsuits against four states -- California, Illinois, Pennsylvania, and South Carolina -- that refused to comply with the new law's requirements. Trials of these suits began in February 1995 and have resulted (with one decision still awaited) in rulings upholding the constitutionality of the NVRA and requiring states to comply. In April 1995, the Section began the second



(photo courtesy the White House)

President Clinton signs the National Voter Registration Act.

phase of its litigation to achieve full nationwide compliance with the NVRA by filing suit against the State of Mississippi.

Lawsuits brought under Section 2 of the Voting Rights Act to challenge voting practices that have a discriminatory result, particularly electoral systems that dilute minorities' opportunities to elect candidates of their choice, are a continuing responsibility of the Section's litigation program. Recently, for example, the Section filed a complaint together with a consent decree in a lawsuit challenging the at-large method of electing the city council of Newport News, Virginia, in which blacks constitute a third of the population. Under the consent decree, the six members of the council will be elected from three double-member districts, one of which is a black majority. Under the special election schedule provided by the consent decree, both representatives from the black majority district will be elected in 1996.

Another responsibility of the Voting Section is to ensure that the full force of the Voting Rights Act is brought to bear against states and localities where judicial election systems undermine minority citizens' opportunity to elect judges of their choice. Through objections under Section 5 of the Voting Rights Act and through litigation, the Section has sought to enhance the fairness of judicial elections in Alabama, Arizona, Georgia, Louisiana, New York, and Texas.

Administrative Management Section

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In support of the enforcement responsibilities of the Division, the Administrative Management Section provides a diverse array of management and technical services. These services include personnel administration, budget formulation and execution, litigation support, procurement and facility services, mail and file operations, automated systems, and processing of Freedom of Information and Privacy Act requests. Additionally, this Section is expanding and enhancing the Division's computer systems.

The Division-wide office automation and database system, referred to as AMICUS, provides Division employees with the primary office tools

essential for day-to-day litigation and support activities: word processing, automated legal research, and communications, including Division-wide electronic mail. Desktop access to legal data bases and the capability to transfer word processing documents between work stations has significantly increased the quality and efficiency of the work of the Division.

Additionally, the Section continually works to expand and enhance the computer systems to provide the legal staffs with the most up-to-date tools. New systems include REQUESTS through which Division personnel submit requests for administrative services on-line, and Travel Manager which automates the preparation of travel requests and vouchers.

Through the Department of Justice Internet host, current information is on Division activities is posted on the Department's gopher server at gopher.usdoj.gov and on the World Wide Web at www.usdoj.gov. Items currently available include the text of the Americans with Disabilities Act, implementing regulations, and the technical assistance manual; policy statements and speeches by Division executives; employer awareness material from the Office of Special Counsel; and complaints and consent decrees in unique and/or high visibility cases.

The Division's Geographic Information System (GIS) was designed and installed primarily to increase productivity in the Voting Section. The GIS is now being extended to other Division users who can benefit from this new technology. The GIS is an innovative state-of-the-art system that integrates mapping and analytical capabilities, incorporating data from the Census Bureau's geographic TIGER files, 1980 and 1990 census data, data sent by the states and jurisdictions covered by the Voting Rights Act, and case-related data concerning housing, mortgage lending, and other information with a geographic component.

In the area of human resources, the Division participates in a number of special recruitment programs including the Department's Honor program, a recruitment program for outstanding third-year law students, full time graduate law students, and Judicial Law Clerks; the Department's Paralegal Intern Program; and programs for part-time and summer employment of high school and college students. The Division has also been successful in making

accommodations for many disabled candidates who have become valuable members of its staff.

The Freedom of Information/Privacy Act (FOI/PA) Branch ensures that the Division complies with all aspects of the Freedom of Information and Privacy Acts which may require, for example, the periodic publication of various notices within the Federal Register under both statutes, as well as the processing of records in response to FOI/PA requests from the public. The Branch provides procedural guidance to citizens and legal counsel to other sections of the Civil Rights Division regarding FOI/PA requests and the proper handling of privileged materials. The FOI/PA Branch also coordinates and represents the Division's interests in FOI/PA litigation and in the administrative appeals of request denials.

Office of Redress Administration

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The Office of Redress Administration was established in September, 1988, to discharge the responsibilities assigned to the Attorney General under Section 105 of the Civil Liberties Act of 1988. This Act provides for redress to American citizens and permanent resident aliens of Japanese ancestry who were forcibly evacuated, relocated, and interned by the United States Government during World War II. Approximately 120,000 Japanese Americans suffered this denial of civil liberties, of whom an estimated 80,000 were surviving when the law was enacted and are eligible for restitution. ORA's responsibilities include the identification and location of these eligible individuals and authorization of payment to them. The Act provides for redress payments of \$20,000 to each eligible individual. To date, 79,565 payments have been made.

CONCLUSION

The Civil Rights Division continues to be the primary institution within the federal government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. Staffing and funding levels have increased to meet the demands of expanded enforcement responsibilities. Today, the Division's staffing level consists of 252 attorney, 295 paralegal and support positions. Employees of the Division are dedicated professionals, responsible for safeguarding the constitutional and statutory rights of all Americans.

This document is available in Braille, large print, audiotape and computer diskette. For a copy, please contact the Administrative Management Section at the address/telephone number listed on page 36.

(cover photo: Civil Rights Memorial, Montgomery, Alabama, courtesy of Richard Howard, copyright 1992)